

Amendment No. 652

Assembly Amendment to Senate Bill No. 485

(BDR 48-708)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 485 (§ 1 & NRS 533.135).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EGO/BJE



Date: 4/30/2015

S.B. No. 485—Revises provisions relating to water. (BDR 48-708)



SENATE BILL NO. 485—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 23, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to water. (BDR 48-708)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to water; revising provisions relating to the adjudication of vested water rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, water rights for surface water, artesian groundwater and percolating groundwater that were initiated by applying water to beneficial use before the statutes regulating those water sources were enacted by the Nevada Legislature in 1905, 1913 and 1939, respectively, are known as vested water rights. Existing law provides a procedure for determining the extent of all vested water rights on a water source, which is called an adjudication. As part of that procedure, claimants of vested rights are required to file proofs of appropriation with the State Engineer, which is known in existing law as the procedure of taking proofs. (NRS 533.090-533.320)

Section 1 of this bill requires any claimant of a pre-statutory water right to submit proof of the claim to the State Engineer on or before December 31, 2025, regardless of whether an adjudication has been ordered for a water source. If a claimant fails to submit such proof, the claim is deemed to be ~~extinguished~~, abandoned. **Section 1** requires the State Engineer to provide notice of this requirement in various manners during the 10-year period before the deadline. **Sections 2 and 5-8** of this bill conform provisions in existing law governing the procedure of the State Engineer taking proofs to reflect the submission of any proofs pursuant to **section 1** to the State Engineer before an adjudication has been ordered. **Sections 3, 4, 9 and 11** of this bill eliminate the procedure of the State Engineer taking proofs in an adjudication on and after January 1, 2026, because **section 1** requires proofs of all pre-statutory water rights to be on file with the State Engineer by December 31, 2025, or such claims are ~~extinguished~~, deemed to be abandoned.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A claimant of any vested water right must submit, on a form prescribed by the State Engineer, proof of the claim to the State Engineer on or before December 31, 2025. If a claimant fails to file such proof on or before December 31, 2025, the claim shall be deemed to be ~~extinguished~~, abandoned.

1 **2. Until December 31, 2025, the State Engineer shall cause notice of the**
2 **provisions of subsection 1 to be:**

3 **(a) Published annually for 4 consecutive weeks in four or more newspapers**
4 **of general circulation throughout the State.**

5 **(b) Posted on the Internet website maintained by the State Engineer.**

6 **Sec. 2.** NRS 533.095 is hereby amended to read as follows:

7 533.095 1. As soon as practicable after the State Engineer shall make and
8 enter the order granting the petition or selecting the streams upon which the
9 determination of rights is to begin, the State Engineer shall prepare a notice setting
10 forth the fact of the entry of the order and of the pendency of the proceedings.

11 2. The notice shall:

12 (a) Name a date when the State Engineer or the State Engineer's assistants
13 shall begin the examination.

14 (b) Set forth that all claimants to rights in the waters of the stream system are
15 required, as provided in this chapter, to make proof of their claims ~~++~~ , **except**
16 **claimants who submitted proof of their claims pursuant to section 1 of this act.**

17 3. The notice shall be published for a period of 4 consecutive weeks in one or
18 more newspapers of general circulation within the boundaries of the stream system.

19 **Sec. 3.** NRS 533.095 is hereby amended to read as follows:

20 533.095 1. As soon as practicable after the State Engineer shall make and
21 enter the order granting the petition or selecting the streams upon which the
22 determination of rights is to begin, the State Engineer shall prepare a notice setting
23 forth the fact of the entry of the order and of the pendency of the proceedings.

24 2. The notice shall ~~++~~

25 ~~—(a) Name~~ **name** a date when the State Engineer or the State Engineer's
26 assistants shall begin the examination.

27 ~~++(b) Set forth that all claimants to rights in the waters of the stream system are~~
28 ~~required, as provided in this chapter, to make proof of their claims, except~~
29 ~~claimants who submitted proof of their claims pursuant to section 1 of this act.]~~

30 3. The notice shall be published for a period of 4 consecutive weeks in one or
31 more newspapers of general circulation within the boundaries of the stream system.

32 **Sec. 4.** NRS 533.105 is hereby amended to read as follows:

33 533.105 1. If satisfactory data are available from the measurements and
34 areas compiled by the United States Geological Survey or other persons, the State
35 Engineer may dispense with the execution of such surveys and the preparation of
36 such maps and stream measurements, except insofar as is necessary to prepare them
37 to conform with the rules and regulations, as provided in NRS 533.100.

38 2. If the surveys are executed and maps are prepared and filed with the State
39 Engineer at the instance of the person claiming a right to the use of water, the
40 proportionate cost thereof, as determined by the State Engineer, to be assessed and
41 collected for the adjudication of the relative rights, as provided in this chapter, shall
42 be remitted to the claimant after the completion of the determination; but the map
43 must conform with the rules and regulations of the State Engineer and shall be
44 accepted only after the State Engineer is satisfied that the data shown thereon are
45 substantially correct. Such measurements, maps and determinations shall be
46 exhibited for inspection ~~at the time of taking proofs and~~ during the period during
47 which ~~such~~ **proofs of claims** and evidence are kept open for inspection in
48 accordance with the provisions of this chapter.

49 **Sec. 5.** NRS 533.110 is hereby amended to read as follows:

50 533.110 1. Upon the filing of such measurements, maps and determinations,
51 the State Engineer shall prepare a notice setting forth the date when the State
52 Engineer is to commence the taking of proofs , **except proofs submitted pursuant**
53 **to section 1 of this act**, as to the rights in and to the waters of the stream system,

1 and the date prior to which the same must be filed. The date set prior to which the
2 proofs must be filed shall not be less than 60 days from the date set for the
3 commencement of the taking of proofs. The notice shall be deemed to be an order
4 of the State Engineer as to its contents. The State Engineer shall cause the notice to
5 be published for a period of 4 consecutive weeks in one or more newspapers of
6 general circulation within the boundaries of the stream system, the date of the last
7 publication of the notice to be not less than 15 days prior to the date fixed for the
8 commencement of the taking of proofs by the State Engineer.

9 2. At or near the time of the first publication of the notice, the State Engineer
10 shall send by registered or certified mail to each person, or deliver to each person,
11 in person, hereinafter designated as claimant, claiming rights in or to the waters of
12 the stream system, insofar as such claimants can be reasonably ascertained, *who*
13 *has not submitted proof pursuant to section 1 of this act*, a notice equivalent in
14 terms to the published notice setting forth the date when the State Engineer will
15 commence the taking of proofs, and the date prior to which proofs must be filed
16 with the State Engineer. The notice must be mailed at least 30 days prior to the date
17 fixed for the commencement of the taking of proofs.

18 **Sec. 6.** NRS 533.115 is hereby amended to read as follows:

19 533.115 The State Engineer shall, in addition, enclose with the notice to be
20 mailed as provided in NRS 533.110, blank forms upon which ~~the~~ a claimant *who*
21 *has not submitted proof pursuant to section 1 of this act* shall present in writing all
22 particulars necessary for the determination of the claimant's right in or to the waters
23 of the stream system, the statement to include the following:

- 24 1. The name and post office address of the claimant.
- 25 2. The nature of the right or use on which the claim for appropriation is based.
- 26 3. The time of the initiation of such right and a description of works of
27 diversion and distribution.
- 28 4. The date of beginning of construction.
- 29 5. The date when completed.
- 30 6. The dates of beginning and completion of enlargements.
- 31 7. The dimensions of the ditch as originally constructed and as enlarged.
- 32 8. The date when water was first used for irrigation or other beneficial
33 purposes and, if used for irrigation, the amount of land reclaimed the first year, the
34 amount in subsequent years, with the dates of reclamation, and the area and
35 location of the lands which are intended to be irrigated.
- 36 9. The character of the soil and the kind of crops cultivated, the number of
37 acre-feet of water per annum required to irrigate the land, and such other facts as
38 will show the extent and nature of the right and compliance with the law in
39 acquiring the same, as may be required by the State Engineer.

40 **Sec. 7.** NRS 533.120 is hereby amended to read as follows:

41 533.120 1. Each claimant shall be required to certify to his or her statement
42 *completed pursuant to NRS 533.115* under oath. The State Engineer and the State
43 Engineer's assistants authorized to take proofs are hereby authorized to administer
44 such oaths.

45 2. Oaths shall be administered and blank forms furnished by the State
46 Engineer and the State Engineer's assistants without charge.

47 **Sec. 8.** NRS 533.125 is hereby amended to read as follows:

48 533.125 1. The State Engineer shall commence the taking of *any* proofs *not*
49 *submitted pursuant to section 1 of this act* on the date fixed and named in the
50 notice provided for in NRS 533.110 for the commencement of the taking of proofs.
51 The State Engineer shall proceed therewith during the period fixed by the State
52 Engineer and named in the notice, after which no proofs shall be received by or

1 filed by the State Engineer. The State Engineer may, in his or her discretion, for
2 cause shown, extend the time in which proofs may be filed.

3 2. Upon neglect or refusal of any person to make proof of his or her claim or
4 rights in or to the waters of such stream system, as required by this chapter, prior to
5 the expiration of the period fixed by the State Engineer during which proofs may be
6 filed, the State Engineer shall determine the right of such person from such
7 evidence as the State Engineer may obtain or may have on file in the Office of the
8 State Engineer in the way of maps, plats, surveys and transcripts, and exceptions to
9 such determination may be filed in court, as provided in this chapter.

10 **Sec. 9.** NRS 533.140 is hereby amended to read as follows:

11 533.140 1. As soon as practicable, ~~after the expiration of the period fixed~~
12 ~~in which proofs may be filed,~~ the State Engineer shall assemble all proofs ~~related~~
13 ~~to the stream or stream system~~ which have been filed with the State Engineer ~~and~~
14 and prepare, certify and have printed an abstract of all such proofs. The State
15 Engineer shall also prepare from the proofs and evidence taken or given before the
16 State Engineer, or obtained by the State Engineer, a preliminary order of
17 determination establishing the several rights of claimants to the waters of the
18 stream.

19 2. When the abstract of proofs and the preliminary order of determination is
20 completed, the State Engineer shall then prepare a notice fixing and setting a time
21 and place when and where the evidence taken by or filed with the State Engineer
22 and the proofs of claims must be open to the inspection of all interested persons, the
23 period of inspection to be not less than 20 days. The notice shall be deemed an
24 order of the State Engineer as to the matters contained therein.

25 3. A copy of the notice, together with a printed copy of the preliminary order
26 of determination and a printed copy of the abstract of proofs, must be delivered by
27 the State Engineer, or sent by registered or certified mail, at least 30 days before the
28 first day of such period of inspection, to each person who has ~~appeared and~~ filed
29 proof ~~as provided in this section,~~ ~~related to the stream or stream system.~~

30 4. The State Engineer shall be present at the time and place designated in the
31 notice and allow, during that period, any persons interested to inspect such evidence
32 and proof as have been filed with ~~for taken by~~ the State Engineer in accordance
33 with this chapter.

34 **Sec. 10.** NRS 533.250 is hereby amended to read as follows:

35 533.250 1. Any and all maps, plats, surveys and evidence on file in the
36 Office of the State Engineer relating to any proof of appropriation involved in the
37 proceeding for the determination of the relative rights in and to the waters of any
38 stream system, obtained or filed under the provisions of this chapter or any
39 preceding act relating to the Office of State Engineer, shall be admissible in court
40 and shall have the same force and effect as though obtained and submitted under
41 the provisions of this chapter.

42 2. At least 90 days prior to the rendering of his or her order of determination
43 of the relative rights in and to the waters of any stream system, the State Engineer
44 shall notify all parties in interest of his or her intention to consider such maps, plats
45 and evidence, and of his or her intention to submit the findings of the State
46 Engineer to the court under the provisions of this chapter. ~~The notice shall be~~
47 ~~given in the manner prescribed in NRS 533.110.~~

48 3. Within 60 days after such notice, any party in interest may file with the
49 State Engineer any additional or supplementary maps, plats, surveys or evidence, or
50 objections to the admissibility of any evidence hitherto presented and on file in the
51 office of the State Engineer, in relation to his or her claim of water right or adverse
52 to the claim or claims of the water right of any other party or parties in interest, in
53 order so to perfect his or her claim in accordance with the provisions of this

chapter, and the State Engineer shall consider the whole thereof in rendering such order of determination, and the same shall become a part of the record which shall be submitted to the court as provided by NRS 533.165 to 533.235, inclusive.

Sec. 11. NRS 533.364 is hereby amended to read as follows:

533.364 1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include:

(a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

(c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, **and section 1 of this act**, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory.

Sec. 12. NRS 533.110, 533.115, 533.120 and 533.125 are hereby repealed.

Sec. 13. 1. This section and sections 1, 2, 5 to 8, inclusive, and 11 of this act become effective on July 1, 2015.

2. Sections 3, 4, 9, 10 and 12 of this act become effective on January 1, 2026.

LEADLINES OF REPEALED SECTIONS

533.110 Notice of commencement of taking of proofs as to rights; time for filing; publication and mailing of notice.

533.115 Blank forms enclosed with notice; contents of statement.

533.120 Statements to be certified under oath; no fee for administering or furnishing blank form.

533.125 Commencement of taking of proofs; extension of time; determination of rights if claimant neglects or refuses to make proof.